



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2014-0784]

RIN 1625-AA00

Safety Zone; Natchez Specialties New Year's Eve Firework Display, Lower Mississippi River, Mile Marker, (MM) 363.5 to 364.5

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing a temporary Safety Zone for all waters of the Lower Mississippi River, from MM 363.5 to MM 364.5. This safety zone is needed to protect persons and vessels from the potential safety hazards associated with a fireworks display. Entry into this zone is prohibited to all vessels, mariners, and persons unless specifically authorized by the Captain of the Port (COTP), Lower Mississippi River or a designated representative.

DATES: This rule is effective from 7:30 p.m. to 8:00 p.m. on December 31, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2014-0784]. To view documents mentioned in

this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail LT Tyrone Conner, Sector Lower Mississippi River Waterways Management Division, U.S. Coast Guard; telephone (901)521-4725, e-mail Tyrone.L.Conner@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
COTP	Captain of the Port

#### A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule

without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." While a full 30 days notice is provided, under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not completing the full notice of proposed rulemaking (NPRM) process with respect to this rule. After reviewing the details of the application and the fireworks display, the Coast Guard determined that a fireworks display taking place over a confined waterway presents certain safety hazards requiring additional safety measures. This safety zone is needed to protect fireworks display spectators, and other mariners from those safety hazards. Delaying or foregoing this safety measure would be contrary to the public interest.

Additionally, this display has been advertised to the local community and while the application for this event was not timely submitted, we understand that the local community has undertaken considerable planning for this event. It would thus be impracticable and unnecessary to reschedule or delay the planned event in order to complete the full NPRM

process. Rescheduling or delaying the event would interfere with commercial and contractual obligations.

#### B. Basis and Purpose

The legal basis and authority for this rule are found in 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which authorizes the Coast Guard to establish and define regulatory safety zones. The Natchez Specialties New Year's Eve Firework Display is scheduled to take place on December 31, 2014 on the Lower Mississippi River MM 364.0. The introduction of fireworks display into a commercially transited waterway poses significant safety hazards to both the operators and the commercial vessels.

The COTP Lower Mississippi River is establishing a temporary safety zone for a portion of the Lower Mississippi River from MM 363.5 to MM364.5 to safeguard persons and vessels, during the fireworks display. The COTP anticipates minimal impact on vessel traffic due to this regulation. However, the temporary safety zone is deemed necessary for the safeguard of life and property within the COTP Lower Mississippi zone.

#### C. Discussion of the Final Rule

The Natchez Specialties New Year's Eve Firework Display is scheduled to take place on December 31, 2014 on the Lower Mississippi River at MM 364.0. The Coast Guard is establishing a temporary safety zone to protect life and property from the hazards associated with a fireworks display on a commercially transited waterway. This temporary safety zone encompasses all waters of the Lower Mississippi River from MM 363.5 to MM 364.5. This temporary safety zone is effective from: 7:30 p.m. to 8:00 p.m. on December 31, 2014. Entry into, transiting or anchoring in the safety zone is prohibited unless specifically authorized by the COTP Lower Mississippi River or a designated representative. Requests for deviation from this restriction should be directed to the COTP Lower Mississippi River or designated representative. Deviation requests will be considered on a case-by-case basis.

The COTP Lower Mississippi River may be contacted by telephone at 866-777-2784. The COTP Lower Mississippi River or a designated representative will inform the public through broadcast notice to mariners of changes in the effective period or planned schedule for these restrictions.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below

we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The temporary safety zone listed in this rule will only restrict vessel traffic from entering, transiting, or anchoring within a small portion of the Lower Mississippi River. The effect of this regulation will not be significant for several reasons: 1) this rule will only affect vessel traffic for a short duration; 2) vessels may request permission from the COTP to deviate from the restriction and transit through the safety zone; and 3) the impacts on routine navigation are expected to be minimal because notifications to the marine community will be made through local notice to mariners (LNM) and broadcast notice to mariners (BNM). Therefore, these notifications will

allow the public to plan operations around the safety zone and its enforcement times.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the Lower Mississippi River from MM 363.5 to MM 364.5 effective from 7:30 p.m. to 8:00 p.m. on December 31, 2014. This safety zone will not have a significant economic impact on a substantial number of small entities because this rule will only be in effect during scheduled firework display times for approximately thirty minutes on the day the event is occurring. Traffic in this area is limited to almost entirely recreational vessels and commercial towing vessels.

Notifications to the marine community will be made through BNMs and electronic mail. Notices of changes to the safety zone and scheduled effective times and enforcement periods will also be made. Deviation from the restrictions may be requested from the COTP or designated representative and will be considered on a case-by-case basis.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business



and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person

listed in the "FOR FURTHER INTFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that is not expected to have any environmental impact as described in NEPA. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction.

An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

2. A new temporary § 165.T08-0784 is added to read as follows:

§ 165.T08-0784 Safety Zone; Natchez Specialties New Year's Eve Firework Display, Lower Mississippi River Mile Marker, (MM) 363.5 to (MM) 364.5, Natchez, MS.

(a) Location. The following area is under a temporary safety zone: waters of the Lower Mississippi River, from MM 363.5 to MM 364.5.

(b) Effective date and times. This rule will be effective from 7:30 p.m. to 8:00 p.m. on December 31, 2014.

(c) Regulations. (1) In accordance with the general regulations in § 165.23 of this part, entry into this area is prohibited unless authorized by the Captain of the Port (COTP) Lower Mississippi River or a designated representative.

(2) Spectator vessels may safely transit outside the safety zone at a minimum safe speed, but may not anchor, block, loiter, or impede participants or official patrol vessels.

(3) Vessels requiring entry into or passage through the safety zone must request permission from the COTP Lower Mississippi River or a designated representative. They may be contacted on VHF-FM channels 16 or by telephone at (901) 521-4822.

(4) All vessels shall comply with the instructions of the COTP Lower Mississippi River and designated personnel. Designated personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(d) Informational Broadcasts. The Captain of the Port, Lower Mississippi River or a designated representative will

inform the public through broadcast notices to mariners (BNM) of the effective period for the safety zone and of any changes in the effective period, enforcement times, or size of the safety zone.

Dated: October 31, 2014

J. D. Burns, Acting,  
Commander, U.S. Coast Guard,  
Acting Captain of the Port, Lower Mississippi River

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